



Date: December 9, 2015

To: Members of the House Oversight and Ethics Committee

From: Charlotte Jameson, Policy Manager, Michigan League of Conservation Voters

Re: Testimony in opposition to House Bill 4540 (H-6)

Please note that Michigan LCV intends to score a committee vote on HB 4540 on our *Environmental Scorecard*.

Michigan League of Conservation Voters (LCV) is the non-partisan, political voice for Michigan's land, air, and water. **On behalf of our statewide membership, Michigan LCV expresses our opposition to House Bill 4540 (H-6).** This bill exempts information about existing and proposed energy infrastructure from the Michigan Freedom of Information Act (FOIA) public disclosure requirements. As written, HB 4540 is a blanket exemption from FOIA that would prevent Michigan stakeholders and landowners from accessing a broad array of information on pipelines and other energy and electricity generating infrastructure, including safety records, data on pipeline corrosion and leaks, condition of wells, and rate and outcome of inspections. **Michigan LCV urges you to oppose HB 4540.**

Transparency and public oversight are paramount to protecting our health and environment from potentially devastating failures of our energy infrastructure. Disclosure policies like Michigan's Freedom of Information Act enable public scrutiny and hold energy companies accountable for the quality and maintenance of their infrastructure. Disclosure also provides Michiganders directly impacted by energy infrastructure, such as nearby landowners, the information they need to gauge what dangers exist and to protect their private property and their communities.

Before a restriction on FOIA access to energy information was enacted on the federal level, public disclosure of information related to pipelines led directly to improvements in pipeline safety regulation. According to information obtained from the Pipeline and Hazardous Materials Safety Administration (PHMS), since 1986 there have been nearly 8,000 pipeline accidents that resulted in more than

500 deaths and more than 2,300 injuries and nearly \$7 billion in damage. One gas pipeline accident in 2000 in New Mexico created a 50-story high flame and killed 12 people. Later it was revealed that the pipeline had not been inspected for corrosion in 50 years. The disclosure of the inadequate corrosion inspection history increased public pressure and awareness and led directly to the enactment of the 2002 Pipeline Safety Improvement Act.

Close to 70,000 miles of natural gas and hazardous liquid underground pipelines crisscross Michigan, including those running through urban and environmentally sensitive areas. Pipeline safety has been the subject of increased public concern in Michigan since 2010, when an oil pipeline owned by Enbridge spilled more than a million gallons of oil into a tributary of the Kalamazoo River. The safety of Michigan residents and our natural resources from accidents like the Kalamazoo oil spill is critical. Recently, attention has turned to another Enbridge Pipeline—the 62 year old Line 5 pipeline transports nearly 23 million gallons of oil every day under the Straits of Mackinac. To date almost no information on the aging pipeline has been made public, leaving Michiganders in the dark on the potential threat it poses to our Great Lakes, important tourist destinations, fisheries, and local communities. If enacted, the sweeping exemption language in HB 4540 would effectively veil even more safety information on energy infrastructure in secrecy and severely limit the public's fundamental right to know what is running through their backyards and neighborhoods.

Further, HB 4540 is unnecessary given existing federal and Michigan state provisions for security. Federal FOIA law already includes exemptions for disclosure of information related to energy infrastructure and provides consistent coverage across all states. Michigan's FOIA law also contains exemptions for safety and security that carefully balance those concerns with the public interest in disclosure.

House Bill 4540 goes well beyond current federal FOIA exemptions for critical energy infrastructure.

- Federal regulation (18 CFR 388.113) includes provisions that allow landowners "whose property is crossed by or in the vicinity of a project" to receive information without submitting a non-disclosure agreement.
- On the federal level there is an established process for stakeholders and organizations to access critical energy infrastructure information.
- Finally, federal regulations include language within the CEII definition that ensures no new exemption is created. CEII is defined as only that

information already exempt under federal FOIA. HB 4540 (H-6) does not include language mirroring the federal provisions on this point.

Recently, the Michigan Legislature recognized the importance of public disclosure through our Freedom of Information Act (FOIA) and took the important step to increase government transparency by reducing FOIA fees and delays. The Legislature should continue to look for ways to facilitate public requests for information, not place additional and sweeping restrictions on them. Making information more accessible makes all Michiganders safer. It allows the light of day to create incentives for businesses to engage in environmentally responsible behavior that safeguards our natural resources and our communities. It also helps the public make more informed decisions about their health, housing, and communities. HB 4540 (H-6) would restrict exactly the kind of information that the public needs in order to hold large energy and energy transport companies accountable. **Michigan LCV urges members of the House Oversight and Ethics Committee to oppose HB 4540 (H-6).**

Sincerely,

Charlotte Jameson
Policy Manager
Michigan League of Conservation Voters

